

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CALLY TURNER,

Plaintiff,

v.

No. 18-cv-1217 SMV/GJF

**FORD MOTOR COMPANY;
TRW VEHICLE SAFETY SYSTEMS, INC.; and
TRW AUTOMOTIVE U.S. LLC;**

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER is before the Court sua sponte, following its review of the Complaint [Doc. 1], filed by Plaintiff on December 26, 2018. The Court has a duty to determine whether subject matter jurisdiction exists sua sponte. *See Tuck v. United Servs. Auto. Ass'n*, 859 F.2d 842, 844 (10th Cir. 1988). The Court, having considered the Complaint, the applicable law, and being otherwise fully advised in the premises, concludes that the Complaint fails to allege the necessary facts of citizenship to sustain diversity jurisdiction. Therefore, the Court will order Plaintiff to file an amended complaint no later than January 24, 2019, if the necessary jurisdictional allegations can be made in compliance with the dictates of Rule 11 of the Federal Rules of Civil Procedure.

Background

On December 26, 2018, Plaintiff filed her Complaint, asserting complete diversity between Plaintiff and Defendants and asserting that the amount in controversy exceeded \$75,000. [Doc. 1] at 2–4. In support of her claim of diversity of citizenship, Plaintiff reports that she is a citizen of

Arizona and that Defendants are citizens of Delaware and/or Michigan. *Id.* at 2, 4. Of relevance to this Order, Plaintiff alleges that:

4. Defendant TRW VEHICLE SAFETY SYSTEMS, INC. (“TRW VSSI”) is a Delaware corporation with its principal place of business located in Washington, Michigan. TRW VEHICLE SAFETY SYSTEMS, INC. is a wholly owned subsidiary of AUTOMOTIVE U.S. LLC.

5. Defendant TRW AUTOMOTIVE U.S. LLC. (“TRW AUTOMOTIVE”), the parent company of Defendant TRW VSSI, is a Delaware limited liability company. Defendant TRW AUTOMOTIVE maintains a registered agent and registered office in this State, Corporation Service Company, 123 East Marcy Street, Suite 101, Santa Fe, NM 87501, where TRW AUTOMOTIVE may be served with legal process in this case.

6. At all times relevant and for all relevant purposes herein, Defendant TRW VSSI acts a division of its parent company, Defendant TRW AUTOMOTIVE. For all acts alleged herein, TRW VSSI and TRW AUTOMOTIVE acted jointly as one entity, and are collectively referred to as “TRW.”

Id. at 2. Plaintiff makes no allegation about the citizenship of the members of TRW Automotive U.S. LLC. *See id.*

Legal Standard

A plaintiff is required to assert the basis of subject matter jurisdiction in her complaint. Fed. R. Civ. P. 8. Additionally, the district court must be satisfied that, indeed, it has subject matter jurisdiction. *State Farm Mut. Auto. Ins. Co. v. Narvaez*, 149 F.3d 1269, 1270–71 (10th Cir. 1998). Subject matter jurisdiction cannot be waived and thus may be raised by the parties or sua sponte at any time. *Louisville & Nashville R.R. Co. v. Mottley*, 211 U.S. 149, 152 (1908).

Discussion

District courts have original jurisdiction of all civil actions where the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States. 28 U.S.C. § 1332(a) (2018). Determining the citizenship of a limited liability company is different from determining the citizenship of a corporation under § 1332. A corporation is deemed to be a citizen of the State in which it is incorporated and in which it maintains its principal place of business. § 1332(c). Limited liability companies, however, are treated as partnerships for citizenship purposes and are therefore citizens of each and every State in which any member is a citizen. *Siloam Springs Hotel, L.L.C. v. Century Sur. Co.*, 781 F.3d 1233, 1234 (10th Cir. 2015).

Here, the facts set forth in the Complaint do not sufficiently establish the citizenship of Defendant TRW Automotive U.S. LLC, because they fail to allege the citizenship of its members. Plaintiff may amend her Complaint to properly allege the citizenship of the members of Defendant TRW Automotive U.S. LLC.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiff shall amend her Complaint to properly allege diversity of citizenship, if such allegations can be made in compliance with the dictates of Rule 11 of the Federal Rules of Civil Procedure, no later than **January 24, 2019**. If such an amended complaint is not filed by **January 24, 2019**, the Court may dismiss this action without prejudice.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge